

MT LEGISLATIVE HISTORY

Chapter 238 1953

Bill H _____ S 55

Original bill & hist. C

H. Committee on Oil & Gas

S. Committee on Rewards do not exist

Hearing Date(s) Feb 25 ✓ C

Hearing Date(s) _____ C

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Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

COMMITTEE ON OIL AND GAS
February 25, 1953, 1:00, Sales presiding

Jim Houghy explained the Senate Bill 113 authorizing the leasing of oil and gas properties by the cities and counties.

Schiltz moved that Senate Bill 113 be CONCURRED IN, seconded by Juedeman. Motion carried.

Senator Hibbs said the Little Hoover Committee put in Senate Bill 55 providing for a board appointed by the Governor and having two members from the oil and gas industry on it. It is to be a continuing board. The main issue on this bill is financing the Commission.

E. K. Cheadle, lawyer, said that so far as the industry is concerned they think this bill is about as good as can be had at this time. They think the penalty on corporations is a harsh threat and they would like to have it removed. There are plenty of penalties in the bill anyway. They have proposed several amendments, of which they are going to provide copies to the members of the committee. The revenue section has caused the most trouble.

Mr. Andrikopoulos, representing the Rocky Mountain Oil and Gas, presented figures on the amount of money that can be brought in from the amendment which they propose, where the money will go and for what purpose. He assured the committee that the bases of his figures on anticipated income is based on what they actually know as facts in the year 1952. They base their information on 1953 estimate made by the Oil Conservation Board of Montana and an estimate based on a survey by the Oil and Gas Journal of Tulsa, Oklahoma. An oil driller can get only as much pipe as he used in the previous quarter which limits drilling to that extent. There has been a gradual increase in production all through the year. They estimate an income of \$69,173. from the 1¢ per barrel tax. Total salaries would amount to \$28,800. ; expenses in the general office and additional equipment, travel and subsistence, \$11,200; for field offices \$22,700. and field office expense \$10,300., which comes to a total of \$73,000. They suggest an appropriation of \$11,500. as was done two years ago to make up the difference.

Mr. R. P. Jackson, Secretary of the Conservation Commission, said they have a splendid bill prepared. We are facing the biggest era of development and wildcat drilling. They have found that experienced oil members of the Board rendered a great service to the Board and the State of Montana. They know about the operations of the oil business. The Board needs the advice and direction of men who understand the oil business. He thinks they should have more oil and gas men on the Commission. The pay is so small other members lose interest whereas those who have been or are in the business do not.

Fulton suggested that the bill be put in a subcommittee. The bill, S. B. 55, was assigned to O'Connor and Parker for consideration.

The chairman called a meeting of the committee for Friday afternoon on adjournment.

Meeting adjourned.

Wetzsteon, clerk


Chairman

COMMITTEE ON OIL AND GAS
February 27, 1953, 5:30 P. M., Sales presiding

O'Connor reported for the subcommittee concerning Senate Bill 55. The amendments submitted by Fulton were unacceptable. He submitted amendments proposed by Cheadle and which the Senate Oil and Gas Committee agreed should be made. Schiltz moved that the committee accept the amendments and as so amended, be concurred in, seconded by Juedeman. Motion carried.

O'Connor moved to further amend Senate Bill 55 in Section 2, line 8, of the printed bill after the word "men" by striking the word "unless", striking all of line 9, striking line 10 down to and including the word "but". Fulton moved that this amendment be adopted and as so amended, be concurred in, seconded by Schiltz. Motion carried.

Meeting adjourned.


Chairman

Wetzsteon, clerk

county superintendent of schools filed with the commission reciting that said notices were mailed shall be conclusive.

Approval of
superintendent
of public
instruction.

“The boundaries established by said commission shall be subject to the approval of the superintendent of public instruction.

Consolidation,
when.

“If any high school district shall cease to have within its borders an operating, accredited high school, then it shall be the duty of the county superintendent of schools to consolidate and annex the common school districts comprising said high school district to one or more operating high school districts within a period of six (6) months after one (1) year of being declared non-operating or non-accredited.

Factors in
creating
districts.

“In creating such districts the commission shall give first consideration to the factor of convenience of the patrons of the several schools. Common school districts may be grouped for the purpose of this act and when practicable high school districts shall be made up on contiguous and adjacent common school districts but the commission must take into consideration the existence or non-existence of obstacles of travel, such as mountains and rivers and existence or non-existence of highways and distances to high school. No common school districts shall be divided for the purpose of this act but must be made a part of a high school district in its entirety, unless such division is approved and authorized by the voters of the common school district involved, at a special election held for that purpose and such division shall be on the basis of equal area, or as near thereto as practicable in relation to the geographical features of such district, provided that the entire portion of a joint school district within the county shall be included within a high school district.”

Repealing
clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective
immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1953.

CHAPTER 238

An Act Defining and Prohibiting the Waste of Oil and Gas in the State of Montana; Creating and Establishing

the Oil and Gas Conservation Commission; Defining the Powers and Duties of the Commission With Respect to Conservation of Oil and Gas; Providing for the Enforcement of the Act and the Rules, Regulations and Orders of Said Commission; Providing for the Filing and Hearing of Complaints Concerning Waste of Oil and Gas, and for Oaths, Subpoenas, Records, Suits and Appeals; Providing for Financing Activities of the Oil and Gas Conservation Commission; Repealing Sections 60-101 Through 60-123 Both Inclusive, and Section 8-208, Revised Codes of Montana, 1947; and Providing for Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Waste of oil and gas or either of them as waste is defined in this act, is prohibited.

Oil and gas,
prohibition
of waste.

Section 2. A. There is hereby created the oil and gas conservation commission of the State of Montana.

Oil and gas
conservation
commission
created.

B. The oil and gas conservation commission of the State of Montana shall be composed of five (5) persons to be appointed by the governor, with the concurrence of the state senate. That of the commissioners, two (2) and not more than two (2) will be appointed for a period of two (2) years, and they shall be from industry. One (1) non-industry man shall be appointed for three (3) years and one for four (4) years and one (1) for five (5) years. At the expiration of the term of the two (2) industry men, the appointment of their successors shall be for four (4) and five (5) years respectively, after which all vacancies shall be filled for five (5) year terms. All appointed members of the commission shall be subject to removal by the governor for cause at any time. In case of a vacancy in the office of a member of the commission, an appointment shall be made to fill such vacancy in the manner prescribed by the constitution of the State of Montana.

Organization,
terms,
vacancies.

C. Persons appointed as members of the commission shall have been bona fide residents of the State of Montana for at least one (1) year before such appointment, and the two (2) industry members, shall have had at least three (3) years' experience in the production of oil or gas.

Qualifications.

D. Each member appointed to the commission and each person appointed to office by the said commission before

Oath.

entering upon the duties of his office shall take and subscribe to the oath specified in section 1, article 19, of the constitution of the State of Montana and such oaths shall be filed in the office of the secretary of state.

Seal.

E. The commission shall have a seal with the words engraved thereon: "Oil and gas conservation commission of Montana", and such seal shall be affixed to all writs, authentication of records or other official proceedings of the commission. The courts of this state take judicial notice of such seal.

Executive
secretary,
employees.

F. The commission shall appoint an executive secretary and may employ such other persons as experts, geologists, petroleum engineers, attorneys, assistants, field supervisors, clerks and stenographers and may acquire such personal property as may be necessary to perform the duties that may be required of it, and fix the compensation of the executive secretary and employees. The members of the commission shall be allowed their transportation and per diem expenses as provided by law incurred in the discharge of their duties; provided, however, that the total expenditures of such commission shall not exceed in the aggregate during any fiscal year, the amount actually collected under the provisions of section 22 of this act, plus any amount appropriated for that purpose, or otherwise accruing to said fund.

Compensation.

Limitations.

Terms
defined.

Section 3. As used in this act, unless the context otherwise requires:

A. "Waste" means and includes (1) physical waste, as that term is generally understood in the oil and gas industry, (2) the inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy, (3) the location, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas and (4) the inefficient storing of oil or gas; provided, however, that the production of oil or gas from any pool or by any well to the full extent that such well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as shall

be determined by the commission, shall not be deemed to be waste within the meaning of this definition.

B. "Commission" means the oil and gas conservation commission of Montana.

C. "Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or any governmental subdivision thereof; the masculine gender, in referring to a person, includes the feminine and the neuter genders.

D. "Oil" means and includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir.

E. "Gas" means and includes all natural gases and all other fluid hydrocarbons as produced at the wellhead and not hereinabove defined as oil.

F. "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this act.

G. "Field" means the general area underlaid by one or more pools.

H. "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others, and including all persons holding such authority by or through him.

Nothing herein contained shall be construed to conflict with sub-section 4, of Section 81-1702, Revised Codes of Montana of 1947, as amended, granting state board of land commissioners the authority to enter into pooling and unitization agreements for the production of oil or gas with others.

I. "Producer" means the owner of a well or wells capable of producing oil or gas or both.

J. The word "and" includes the word "or" and the use of the word "or" includes the word "and". The use of the plural includes the singular and the use of the singular includes the plural.

Section 4. A. The commission has jurisdiction to exercise effectively the authority granted it by this act.

Commission,
investigatory
powers.

B. The commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify any action by the commission under the authority granted by this act with respect thereto.

Authority
and duties.

C. The commission has authority, and it is its duty:

(1) to require: (a) identification of ownership of oil or gas wells, producing properties and tanks, (b) the making and filing of acceptable well logs, reports on well locations, and the filing of directional surveys, if made, provided, however, that logs of exploratory or wildcat wells need not be filed for a period of six (6) months following completion of such wells, (c) the drilling, casing, producing and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, blowouts, cavings, seepages, and fires: and the pollution of fresh water supplies by oil, gas, salt, or brackish water, (d) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well: (e) proper gauging or other measuring of oil and gas produced and saved to determine the quantity and quality thereof, (f) that every person who produces, transports or stores oil or gas in this state shall make available within this state for a period of five (5) years complete and accurate records of the quantities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may prescribe with respect to quantities, transportations, and storages of such oil or gas.

(2) For the purpose of preventing waste, (a) to regulate the drilling, producing and plugging of wells, the shooting and chemical treatment of wells, the spacing of wells,

operations voluntarily entered into to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations and (b) to fix, upon application made by any interested person after hearing, efficient gas-oil and water-oil ratios for any particular well or wells.

(3) To regulate disposal of salt water and oil field wastes.

(4) To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this act.

(5) To promulgate and to enforce rules, regulations and orders to effectuate the purposes and the intent of this act.

(6) To prepare and submit to the legislative assembly of the State of Montana, during its regular session, and not later than the fifth legislative day, a report of the activities of the commission, including among other things, a summary account of the moneys received and expended by the commission, the petitions which have been filed before it, and such specific recommendations as the commission shall deem proper as to legislative enactment which will further the oil development of the State of Montana, and properly regulate the oil industry and the commission.

D. The commission shall have power and it shall be its duty to determine and prescribe what producing wells shall be defined as "stripper wells" and what wells shall be defined as "wild cat wells", and to make such orders as in its judgment shall be required to protect such wells, and to provide that stripper wells may be produced to capacity if it is deemed necessary in the interest of conservation so to do.

Defining and designating "stripper wells" and "wildcat wells."

E. With respect to any pool or pools from which gas was being produced by a gas well or gas wells on or prior to the date on which this act takes effect, this act shall never be so construed as to authorize the commission at any time to limit or restrain the rate (daily or otherwise) of production of gas from such pool or pools by any well then or hereafter drilled and producing from such pool or pools to less than the rate at which such well can be

Limitation on restriction of production.

produced without adversely affecting the quantity of gas ultimately recoverable by such well.

Drilling permit
required prior
to commence-
ment of well.

Section 5. It shall be unlawful to commence the drilling of a well for oil or gas without first giving to the commission written notice of intention to drill, and obtaining a drilling permit as in this act hereafter provided.

Spacing units
as to pools.

Section 6. A. To prevent or to assist in preventing waste of oil or gas prohibited by this act, the commission, upon its own motion or upon application of any interested person, after hearing, may by order establish well spacing units for a pool, as to oil wells or as to gas wells or both, except in those pools which, prior to the effective date of this act, have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing stage of development. Spacing units when established shall insofar as possible be of uniform size and shape for the entire pool.

Exception.

Factors in
fixing spacing
units.

B. The size and the shape of spacing units are to be such as will result in the efficient and economic development of the pool as a whole, and the size shall be the area that can be efficiently drained by one well.

Limitation of
spacing order.

C. Subject to the provisions of this act, the order establishing spacing units shall direct that no more than one (1) well shall be drilled and produced from the common source of supply on any spacing unit, and that the well shall be drilled at a location authorized by the order, with such exception as may be reasonably necessary where it is shown, upon application, notice, and hearing, and the commission finds, that the spacing unit is located on the edge of a pool or field and adjacent to a producing unit, or, for some other reason, the requirement to drill the well at the authorized location on the spacing unit would be inequitable or unreasonable.

Exceptions
for cause.

Area of
spacing order.

D. An order establishing spacing units for a pool shall cover all lands then determined or then believed to be underlaid by such pool and may be modified after notice and hearing by the commission from time to time to include additional areas subsequently determined to be underlaid by such pool. When found necessary for the prevention of waste, an order establishing spacing units in a pool may be modified after notice and hearing by the commission

Modification,
notice and
hearing.

to increase or decrease the size of spacing units in the pool, or to permit the drilling of additional wells on a reasonably uniform plan in the pool.

Section 7. A. When two (2) or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the persons owning such interests may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, within the spacing unit, the commission, upon the application of any interested person, may enter an order pooling all interests in the spacing unit for the development and operation thereof. Each such pooling order shall be made after hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his just and equitable share of the oil or gas produced and saved from such spacing unit. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for all purposes, the conduct of such operations upon each separately owned tract in the spacing unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

Voluntary and involuntary pooling of interests.

Hearing.

Obligations and production on a portion of unit deemed for each tract therein.

B. Each such pooling order shall make provision for the drilling and operating of a well on the spacing unit, and for the payment of the cost thereof, which cost may include a reasonable charge for supervision, handling and storage. As to each owner who refuses to pay his share of the costs of drilling and operating the well, the order shall provide for payment of his share of the cost out of, and only out of, production from the well allocable to his interest in the spacing unit, excluding royalty or other interest not obligated to pay any part of the cost thereof. In the event of any dispute as to such cost, the commission shall determine the proper cost. The order may provide in substance that the owners who agree to share in the cost of drilling and operating the well shall, unless they agree otherwise, be entitled to receive, subject to royalty or similar obligations, all of the production of the well

Order to provide for drilling a well on unit.

Costs — apportioned.

May be taken from production.

Sharing
after costs.

until they have recovered all of such costs out of such production and thereafter all of the owners in such spacing unit shall be entitled to receive their respective shares of the production of such well as their interest may appear after deducting their respective shares of current operating costs.

Unit operation
authorized.

Section 8. An agreement for the unit or cooperative development and operation of a field or pool or any part of either, or for conducting re-pressuring or pressure maintenance operations, cycling or re-cycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, or any other method of unit or cooperative operation, including water flooding, is authorized and may be performed. Such an agreement shall not be held or construed to violate any of the statutes of this state relating to trusts, monopolies or contracts and combinations in restraint of trade if the agreement is approved by the commission as being in the public interest and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas.

Excepted from
anti-trust and
monopoly laws.

Rules and
regulations to
be prescribed
by commission.

Section 9. A. The commission shall prescribe rules and regulations governing the practice and procedure before the commission.

Notice and
hearing on
all rules,
regulations,
orders.

B. No rule, regulation or order, or amendment thereof, except in an emergency, shall be made by the commission without a public hearing upon at least ten (10) days' notice. The public hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.

Emergency
orders
authorized —
time limit.

C. When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without advance notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than fifteen (15) days.

How notice
given.

D. Notice required by this act shall be given by the commission as follows:

(1) In all cases where (a) there is an application for the entry of a pooling order, or (b) there is an application for an exception from or change in an established well spacing pattern, or (c) a complaint is made by the commission or any person that any provision of this act, or

any rule, regulation or order of the commission is being violated, notice of the hearing to be held on such application or complaint shall be given to the interested persons in the manner provided by the laws of Montana for service of process in civil action as set forth in chapter 30, title 93, Revised Codes of Montana, 1947, as amended, and the secretary of the commission shall for such purposes be vested with the same powers and charged with the same duties as the clerk of the district court has under said chapter.

(2) In all matters of state wide application by one (1) publication in at least five (5) newspapers of general circulation throughout the state which are best calculated by the commission to reach the persons interested, and one (1) of which may be a trade journal or bulletin of general circulation in the oil and gas industry in the state.

Publication.

(3) In all matters applicable to the whole of a particular pool or field, either by personal service or by notice in the manner prescribed in subparagraph two (2) above, excepting that one (1) of the newspapers selected for publication of the notice shall be published in the county where the land affected, or any part thereof, is situated, if any such newspaper there be.

Publication in county where land affected situated.

(4) In all other cases at the election of the commission either by personal service or by one publication in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated.

(5) All notices shall issue in the name of the state, shall be signed by the chairman or executive secretary of the commission, and shall specify the title and number of the proceeding, the time and place of hearing, and shall briefly state the purpose of the proceeding.

Form of notice.

E. All rules, regulations and orders issued by the commission shall be in writing, shall be entered in full in books to be kept by the commission for that purpose, shall be indexed, and shall be public records open for inspection at all times during reasonable office hours. Except for orders establishing or changing rules of practice and procedure, all orders made and published by the commission shall include and be based upon written findings of fact entered and indexed as public records in the manner here-

Rules, regulations, orders in writing.

Public records.

Certified
copies —
evidence.

inabove provided. A copy of any rule, regulation, or order certified by the commission or its secretary shall be received in evidence in all courts of this state with the same effect as the original.

Procedure.

F. Except as otherwise in this act provided, the commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty (30) days after the hearing.

Subpoena
power.

Section 10. A. The commission shall have the power to subpoena witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it. Subpoenaed witnesses shall be paid the same per diem and mileage as is provided to be paid to witnesses attending the district courts of this state.

No infringe-
ment of private
action.

B. Nothing in this act, and no suit by or against the commission, and no violation charged or asserted against any person under any provisions of this act, or any rule, regulation or order issued hereunder, shall impair or abridge or delay any cause of action for damages or other civil remedy, which any person may have or assert against any other person violating any provision of this act, or any rule, regulation, or order issued thereunder. Any person so aggrieved by the violation may sue for and recover such damages or relief as he otherwise may be entitled to receive. If the commission shall fail to bring suit to enjoin a violation or threatened violation of any provision of this act, or any rule, regulation, or order of the commission within ten (10) days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring such suit in his own behalf to restrain such violation or threatened violation in any court in which the commission might have brought suit. The commission shall be made a party defendant in such suit in addition to the person violating or threatening to violate a provision of this act, or a rule, regulation, or order of

Right of party
if commission
fails to act.

the commission, and the action shall proceed and injunctive relief may be granted without bond in the same manner as if suit had been brought by the commission.

C. In case of failure or refusal on the part of any person to comply with the subpoena issued by the commission or in case of the refusal of any witness to testify as to any material matter regarding which he may be interrogated, any district court in the state, upon good cause shown by the application of the commission, may issue a warrant of attachment for such person and if after hearing the court finds his failure or refusal to be unjustified, compel him to comply with such subpoena, and to attend before the commission and produce any subpoenaed records, books, and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

Procedure
on failure
to obey
subpoena.

Section 11. Any person adversely affected by any rule, regulation, or order of the commission may within twenty (20) days after its effective date apply to the commission in writing for a rehearing. The application for rehearing shall be acted upon within ten (10) days after its filing, and if granted, the rehearing shall be held without undue delay.

Rehearing
and appeal of
commission
action.

Section 12. A. Any interested person adversely affected by any provision of this act, or by any rule, regulation, or order made by the commission hereunder, or by any act done or threatened thereunder, may obtain court review and seek relief by a suit for an injunction against the commission as defendant, which suit may be instituted in the district court of the county where the commission keeps its principal office, or in the district court of any county wherein the land involved or any part thereof is situated. The term "interested person", as used herein, shall be interpreted broadly and liberally, especially where the suit involves the right to drill a well, or involves some other act which clearly affects the plaintiff even though the effect be indirect; and if the act complained of involves a general order for a pool, or the right to drill a well therein, a person who owns or has an interest in a well in such pool, which well is capable of producing oil or gas, shall be considered to be, *prima facie*, an interested person.

Right of
"interested
person" to
court relief.

Who is
"interested
person."

Preferential
setting,
de novo trial

Such suit shall be given a preferential setting, and shall be tried de novo and disposed of as an ordinary civil suit, and not upon the record of any hearing or hearings before the commission, if any be held. The statute, rule, regulation, or decision involved in such suit shall be prima facie valid; however, the finding of fact, actual or presumed, made by the commission in support of the rule, regulation, order, or decision involved in such suit shall not be binding on the court though supported by evidence introduced at a hearing or hearings before the commission. The court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any commission action. The court shall

Area of court
jurisdiction.

(a) compel commission action unlawfully withheld or unreasonably delayed; and (b) hold unlawful and set aside commission action, findings, and conclusions found to be

(1) arbitrary, unreasonable, capricious, and abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority or limitations, or short of statutory right;

(4) without observance of procedure required by law; or

(5) unwarranted by the facts.

The court shall consider all the evidence, shall pass on the credibility of witnesses and the weight to be given their testimony, and shall resolve such fact issues as may be necessary for decision in the case.

Injunctive
relief not to
be granted
until certain
bases estab-
lished in court.

B. No temporary restraining order or temporary injunction of any kind shall be granted against the commission and its members or against the attorney general, or against any agent, employee, or representative of the commission, restraining the commission and its members, or any of its agents, employees, or representatives, or the attorney general, from enforcing any of the provisions of this act, or any rule, regulation, or order made thereunder until it shall be shown to the satisfaction of the court that

the act done or threatened is probably without sanction of the law or that the provisions of this act, or the rule, regulation, or order complained of is probably invalid or unreasonable, and that, if enforced against the complaining party, will probably cause an irreparable injury. With respect to any order or decree granting temporary injunctive relief, the nature and extent of the probable invalidity of the statute, or of any provision of this act, or of a rule, regulation, or order thereunder involved in such suit, must be recited in the order or decree granting the temporary relief, as well as a clear statement of the probable damage relied upon by the court as justifying temporary injunctive relief.

What decree must contain.

C. No temporary restraining order or temporary injunction of any kind against the commission or its members, or its agents, employees, or representatives, or the attorney general, shall become effective until the plaintiff shall execute a bond with sufficient sureties in such amount and upon such conditions as the court may direct. The bond shall be made payable to the State of Montana, shall be approved by the judge of the court, and shall be for the use and benefit of all persons who may be injured by the acts done under the protection of the temporary restraining order or temporary injunction. Any person claiming injury must bring suit within six (6) months after the date of the final determination of the validity, in whole or in part of the provisions of the act or the rule, regulation, or order, the enforcement of which was enjoined; otherwise the right to bring such suit shall be forever barred.

Bond prerequisite to injunctive relief.

Limitation on suit on action of commission enjoined.

D. An appeal to the supreme court may be taken from any final judgment, decree or order in any such action, as provided in chapter 80 of title 93, Revised Codes of Montana, 1947.

Appeal to supreme court allowed.

Section 13. Whenever it appears that any person is violating or threatening to violate any provision of this act, or any rule, regulation, or order of the commission, the commission shall bring suit against such person in the district court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. In any such suit, the court shall have jurisdiction to

Actions may be instituted by commission.

grant to the commission, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders.

Retaining non-conflicting rules of board of railroad commissioners.

Section 14. All of the rules, regulations and orders of the board of railroad commissioners of the State of Montana and of the oil conservation board of the State of Montana in effect at the effective date of this act and not in conflict herewith, covering, pertaining to, or relating to any of the regulatory authority, matters and things embraced in this act shall be and remain in full force and effect as rules, regulations and orders of the commission until abrogated or amended by rules, regulations and orders duly promulgated by the commission.

Substituting commission for board of railroad commissioners and oil conservation board on matters in this act.

Section 15. The commission shall be and hereby is substituted for the board of railroad commissioners of the State of Montana and the oil conservation board of the State of Montana in all agreements, contracts, undertakings and proceedings covering or pertaining to the regulatory authority, matters and things embraced in this act, and shall be subject to the liabilities and entitled to the benefits thereof.

Transfer of records, property to commission pertaining to authorities in this act.

Section 16. All property and records of the oil conservation board of the State of Montana and all records of the board of railroad commissioners pertaining to any regulatory authority, or matters, or things, embraced in this act shall forthwith, upon the effective date of this act, be and become the property and records of the commission. All money in the "oil conservation board fund" shall be transferred forthwith by the treasurer of the State of Montana to the oil and gas conservation fund upon the effective date of this act subject to the payment of all lawful outstanding claims, demands and warrants of every nature existing. The commission is empowered to collect any and all taxes together with any penalty and interest which may be due and payable to the oil conservation board on the effective date of this act and the moneys so collected shall be credited to the oil and gas conservation fund, all of said taxes, penalties and interest and the right to collect the same being hereby saved from the repealing provision of this act.

Oil conservation board fund to oil and gas conservation fund.

Commission to collect taxes and penalties due oil conservation board.

Section 17. This act shall apply to all lands in the State of Montana lawfully subject to its taxation and police powers: provided, it shall apply to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands shall fail to effect the intent and purposes of this act and otherwise shall apply to such lands to such extent as any officer of the United States having jurisdiction, or his duly authorized representative, shall approve any of the provisions of this act or the order or orders of the commission which affect such lands; and, furthermore, the same shall apply to any lands committed to a unit agreement approved by the secretary of the interior or his duly authorized representative except that the commission may, with respect to such unit agreements, suspend the application of this act or any part of this act so long as the conservation of oil and gas and the prevention of waste as in this act provided is accomplished under such unit agreements but such suspension shall not relieve any operator or owner from making such reports as may be required by the commission with respect to operations and production under any such unit agreement; nor shall such suspension relieve any operator or owner from the payment of taxes on his oil and gas production or payment for permit fees as required by this act.

Scope of
application
of act.

Section 18. The commission is authorized to cooperate with any other state, interstate, or federal agency, and other governmental agencies of the State of Montana to effect the objects and purposes of this act and expend such funds as may be reasonably necessary in connection therewith.

Commission
may cooperate
with other
agencies.

Section 19. If any person shall wilfully violate any lawful regulation or order of said commission, or if any person, for the purpose of evading this act, or any rule, regulation, or order of the commission, shall knowingly and wilfully (1) make or cause to be made any false entry or statement in a report required by this act or by any such rule, regulation, or order, or any false entry in any record, account, or memorandum required by this act, or by any such rule, regulation, or order, or (2) omit, or cause to be omitted, from any such record, account, or memorandum, full, true, and correct entries as required by this

Penalties.

act, or by any such rule, regulation, or order, or (3) remove from this state or destroy, mutilate, alter, or falsify any such record, account, or memorandum, such person shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than five thousand dollars (\$5,000.00) or imprisonment in a county jail for a term not exceeding six (6) months, or to both such fine and imprisonment.

Oil and gas
wells not pub-
lic utilities.

Section 20. Nothing in this act contained shall in any manner be construed as constituting or attempting to constitute oil or gas wells as a public utility or utilities.

Cores or
cutting to be
available to
commission.

Section 21. Any owner drilling a well for gas or oil shall make available at the well to the commission cores, when available, and the cuttings from such well if and when required by regulation or order of the commission, and the commission shall cause such cores and cuttings to be delivered to the bureau of mines and geology of the State of Montana as the bureau may from time to time request; providing, however, that cores or cuttings from exploratory or wild cat wells need not be so made available for a period of six (6) months following completion or abandonment of such wells.

Delivery to
bureau of
mines and
geology.

Proviso.

Privilege and
license tax
to finance
this act.

Section 22. A. For the purpose of providing funds for defraying the expenses of the operation and enforcement of this act, and the expenses of said commission, the operators and producers of oil and gas shall be required to pay the following schedule of assessments on each and every barrel of crude petroleum originally produced, saved and marketed or stored within the State of Montana, or exported from the State of Montana, to wit: on leases on which wells are producing an average of twenty-five (25) barrels per day or less, one-fourth of one cent ($\frac{1}{4}\phi$); on leases on which wells are producing an average of more than twenty-five (25) barrels per day, one-half of one cent ($\frac{1}{2}\phi$); and on wells producing, saving and marketing, storing, or exporting natural gas, said operators and producers shall pay one mill (1) per ten thousand (10,000) cubic feet. Such payments shall be made during the time said commission is in existence. Producers thereof shall make such payment on each and every barrel of crude petroleum and each ten thousand (10,000) cubic feet of natural gas produced for themselves as well as for others

including royalty holders and shall be reimbursed for such payments made on crude oil and natural gas produced for others in the same manner as they are reimbursed for net proceeds tax paid on crude petroleum or natural gas produced for others as provided for in section 84-5409, Revised Codes of Montana.

In addition to the above mentioned privilege and license tax, any person, before commencing the drilling of any oil or gas well, shall secure from the commission a drilling permit and shall pay to the commission therefor the following amounts: for each well whose estimated depth is thirty-five hundred (3500) feet or less, twenty-five dollars (\$25.00); from thirty-five hundred and one (3501) feet to seven thousand (7,000) feet, seventy-five dollars (\$75.00); seven thousand (7000) feet and deeper, one hundred fifty dollars (\$150.00).

Drilling permit — fee.

B. Each producer of crude petroleum in the State of Montana, shall, not later than the last day of each of the calendar months of January, April, July and October of each and every calendar year, beginning with the month of July of the year one thousand nine hundred and fifty-three (1953), render a true statement to the state treasurer of the State of Montana, and a duplicate thereof to the commission, duly signed and sworn to, of all crude petroleum produced by him in this state during the preceding three (3) calendar months, and containing such other information as the commission may require, and shall accompany such statement with the payment to the state treasurer of the assessment provided for in section 22-A, above, for the period covered by such statement. Each producer of natural gas in the State of Montana shall render like statements to the state treasurer of all natural gas produced by him in this state, and shall make payment of the assessment provided for in section 22-A, at such times and for such periods as may be prescribed by regulation of the commission. Any producer carrying on business at more than one (1) place or location in this state may include all such places of business in one (1) statement.

Quarterly reports to treasurer and commission.

C. Any such assessment not paid within the time herein specified shall be delinquent, and a penalty of twenty-five per cent (25 %) thereof shall be added thereto and the whole thereof shall bear interest at the rate of one per cent

Penalty for delinquent payment.

Duty of
attorney
general.

(1%) per month from the date of delinquency until paid. Upon request of the commission it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.

Oil and gas
conservation
fund.

How money
in fund
expended.

D. All money collected under the provisions of this act shall be deposited in a special fund to be known as the "oil and gas conservation fund" by the state treasurer of the State of Montana, and the fund to be raised shall be used for the purpose of paying all expenses of said commission and for no other purpose; all monies from this fund shall be used by said commission subject to the approval of the controller and biennial appropriations by the legislative assembly. Upon the termination of said commission any balance remaining in said fund shall be paid over to the general fund of the state. All accounts and expenditures of said commission shall be certified by the commission, approved by the board of examiners, and paid by the state treasurer upon warrants drawn by the state auditor out of the oil and gas conservation fund.

Secretary and
employees —
limitation on
expenditures.

E. The commission may appoint a secretary and employ such other persons as experts, assistants, clerks, and stenographers, as may be necessary to perform the duties that may be required of it, and fix their compensation; provided, however, that the total expenditures of such commission shall not exceed in the aggregate during any fiscal year, the amount actually collected under the provisions of 22-A, plus any amount appropriated for that purpose, or otherwise accruing to said fund. The members of the commission shall be allowed their several expenses incurred in the discharge of their duties.

Severability.

Section 23. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are hereby declared to be severable.

Repealing
clause.

Section 24. Title 60 composed of Sections 60-101 through 60-123 both inclusive, and Section 8-208 of the Revised Codes of Montana of 1947, and all other acts and parts of other acts in conflict herewith are hereby repealed.

Section 25. This act shall take effect on April 1, 1953.

Effective
date.

Approved March 9, 1953.

CHAPTER 239

An Act to Amend Sections 27-202, 27-203, 27-204, 27-205, 27-206, 27-207, 27-210 and 27-211, Revised Codes of Montana, 1947, Being Part of the Montana Insecticide, Fungicide, and Rodenticide Act of 1947, Relating to Prevention of the Manufacture, Shipment and Sale of Adulterated or Misbranded Insecticides, Fungicides, Rodenticides, Herbicides, and Other Economic Poisons With the State of Montana; Providing for the Registration and Examination of Said Materials by the State Board of Health of the State of Montana; Prescribing the Powers and Duties of Said Board, and the Powers and Duties of the Director of the Agricultural Experiment Station of Montana State College, Including the Power of Either and Both to Make Rules and Regulations Within the Scope of Said Sections and This Act Upon and in Connection With Said Subjects of Regulation; Providing Penalties for Violation of Said Sections and This Act; Providing for the Disposal of Fines, Effecting Seizures, Delegation of Duties by Said Board, Cooperation by Said Board With Other Governmental Agencies; and to Abolish the Title of "Director", and to Charge Said Board, as a Board, With the Responsibility for the Administration and Enforcement of Said Sections and This Act, and to Prescribe That All Personnel Employed or Appointed by the Board Under This Act Shall Function Under the Continuing Supervision of Said Board and Subject to Its Order and Regulations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 27-202, Revised Codes of Montana, 1947, shall be and the same is hereby amended to read as follows:

Amending
clause.

"27-202. Definitions for Purposes of Montana Insecticide, Fungicide, and Rodenticide Act of 1947. State Board of Health Charged With Administration and Enforcement of Act.